

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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**ANTHONY BELLO,**

**Plaintiff,**

**- against -**

**THE CITY OF NEW YORK,  
POLICE OFFICER MICHEAL CASSESI,  
SGT. LAWREN DONNELLY  
& JOHN DOE POLICE OFFICERS 1-3,**

**Defendants.**

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**AMENDED COMPLAINT**

**Civ. No. 09 CV 9823**

**PLAINTIFF DEMANDS  
A TRIAL BY JURY**

Plaintiff, by his attorney, CARMEN S. GIORDANO, complaining of Defendants,  
respectfully allege:

**PRELIMINARY STATEMENT**

1. Plaintiff brings this action for an incident of police brutality and deprivation of protected rights which transpired on or about September 8, 2007, when law enforcement officers employed by THE CITY OF NEW YORK were negligent, wrongfully detained and maliciously prosecuted him in New York County, New York.
2. On September 8, 2007, at approximately 1:55 a.m. in the vicinity of the 226 East 238<sup>th</sup> Street, Apt 10, in New York County, State of New York, Defendants POLICE OFFICER MICHEAL CASSESI, SGT. LAWREN DONNELLY and JOHN DOE POLICE OFFICERS 1-3, detained and arrested the Plaintiff without probable cause.
3. At approximately 1:55 a.m. officers arrived at 226 East 238<sup>th</sup> Street responding to a noise complaint. Upon arrival, Defendants POLICE OFFICER MICHEAL CASSESI, SGT. LAWREN DONNELLY and JOHN DOE POLICE OFFICERS 1-3, asked all persons present to disperse and leave. Defendants then demanded that Plaintiff step outside the

apartment into the hallway.

4. After Plaintiff had provided identification to the Defendants as requested and the Defendants verified that Plaintiff was permitted to be in the apartment, Defendants surrounded Plaintiff, continued to question him and, without justification, Defendants began to physically restrain Plaintiff. When Plaintiff protested, Defendants beat, kicked, punched, twisted Plaintiff's right ankle and pulled Plaintiff's head backward.
5. Plaintiff was then arrested without probable cause and imprisoned for several days causing Plaintiff further physical injury, emotional distress, humiliation and embarrassment.
6. Prior to the commencement of this action, and within ninety days after the instant claim arose, Plaintiff caused a Notice of Claim in writing to be served upon the Defendant THE CITY OF NEW YORK, by delivering to and leaving the same with the New York City Comptroller's Office, in like manner as the service of a summons in the District Court, which said Notice of Claim set forth the name and post office address of the Plaintiff and his attorney, the nature of, time when, place where, and manner in which the claims arose, and the items of damage and/or injuries claimed, or that might have been sustained, so far as it was practicable. Over thirty days have elapsed since the service of such Notice of Claim and the THE CITY OF NEW YORK has failed to settle or adjust this matter.
7. This action was commenced within one year and ninety days after the cause of action herein accrued.

#### **THE PARTIES**

8. At all relevant times, Plaintiff is and was a resident of Bronx County, New York.

9. At all times relevant hereto, Defendants, acted in their official capacities, and were employees, agents, or servants of the Defendant THE CITY OF NEW YORK, acting under color of state law, within the meaning of 42 U.S.C. §1983 *et. seq.*
10. Defendant THE CITY OF NEW YORK was and is a municipal corporation organized and existing under and pursuant to the laws of the State of New York. At all relevant times, Defendant THE CITY OF NEW YORK acted through its employees, agents and/or servants, including the individually named Defendants herein, who at all relevant times acted within the course and scope of their employment.

**AS AND FOR A FIRST CLAIM PURSUANT TO 42 U.S.C. §1983 BY PLAINTIFF**  
**AGAINST DEFENDANTS POLICE OFFICER MICHEAL CASSESI, SGT. LAWREN**  
**DONNELLY & JOHN DOE POLICE OFFICERS 1-3**

11. Plaintiff repeats and realleges each and every allegation contained in the preceding paragraphs as if fully set forth herein.
12. On or about September 8, 2007 Defendants POLICE OFFICER MICHEAL CASSESI, SGT. LAWREN DONNELLY and JOHN DOE POLICE OFFICERS 1-3, acting intentionally, recklessly and/or with a deliberate indifference to the rights, life and liberty of Plaintiff, assaulted, battered and caused physical and mental injuries to Plaintiff.
13. As a result of the foregoing, Defendants, acting under color of state law, violated 42 U.S.C. §1983 *et. seq.*, and deprived Plaintiff of rights secured by the Constitution and laws of the United States and the State of New York including those rights protected by the Fourth and Fourteenth Amendments to the U.S. Constitution, their right not to be deprived of life, liberty and property without due process of law, and other rights, privileges and immunities guaranteed by the laws and Constitutions of the United States

and the State of New York.

14. As a result of the foregoing, Plaintiff was caused to suffer bodily injury, loss of liberty, substantial physical, emotional, mental and psychological pain, and was otherwise injured.

**AS AND FOR A SECOND CLAIM PURSUANT TO 42 U.S.C. §1983 BY PLAINTIFF  
AGAINST DEFENDANTS POLICE OFFICER MICHEAL CASSESI, SGT. LAWREN**

**DONNELLY & JOHN DOE POLICE OFFICERS 1-3**

15. Plaintiff repeats and realleges each and every allegation contained in the preceding paragraphs as if fully set forth herein.
16. On or about September 8, 2007, Defendants, acting without probable cause, intentionally, without justification and with deliberate indifference to the rights, life and liberty of Plaintiff, falsely arrested and maliciously prosecuted Plaintiff.
17. As a result of the foregoing, Defendants, acting under color of state law, violated 42 U.S.C. §1983 *et. seq.*, and deprived Plaintiff of rights secured by the Constitution and laws of the United States including those rights protected by the Fourth and Fourteenth Amendments, their right not to be deprived of life, liberty and property without due process of law, and other rights, privileges and immunities guaranteed by the laws and Constitutions of the United States and the State of New York.
18. As a result of the foregoing, Plaintiff was caused to suffer bodily harm, loss of liberty and life, substantial physical, emotional and psychological pain, and was otherwise injured.

**AS AND FOR A THIRD CLAIM OF MALICIOUS PROSECUTION  
AGAINST ALL DEFENDANTS**

19. Plaintiff repeats and realleges each and every allegation contained in the preceding

paragraphs as if fully set forth herein.

20. On or about February 27, 2009, Defendants, acting intentionally, maliciously and without justification or probable cause, caused to be filed an accusatory instrument or otherwise brought criminal charges against Plaintiff who was criminally prosecuted therefore until such prosecution was terminated in his favor.

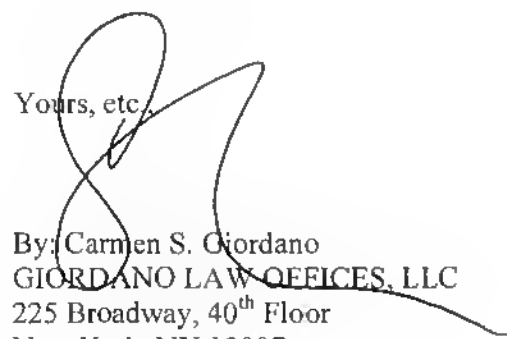
21. As a result of the foregoing, Plaintiff was caused to suffer loss of liberty and life, substantial emotional, mental and psychological pain, and was otherwise injured.

**WHEREFORE**, Plaintiff demands the following relief jointly and severally against all of the Defendants:

- a. Compensatory damages;
- b. Punitive damages against POLICE OFFICER MICHEAL CASSESI, SGT. LAWREN DONNELLY and JOHN DOE POLICE OFFICERS 1-3;
- c. The convening and empaneling of a jury to consider the merits of the claims herein;
- d. Costs and interest and attorney's fees;
- e. Such other and further relief as this court may deem appropriate and equitable.

Dated: February 22, 2010  
New York, New York

Yours, etc.

  
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